

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 15409/2015

Nanik S. Chainani S/o Late Shri Shamandas S. Chainani, aged 67 years, Retired Upper Division Clerk, Board Of Revenue for Rajasthan, Ajmer and Resident of 334/17, Nala Bazar, Ajmer.

-----Petitioner

Versus

1. The State Of Rajasthan Through The Principal Secretary To The Government, Department Of Revenue (Group-1), Secretariat, Jaipur.
2. Board Of Revenue For Rajasthan, Todarmal Marg, Ajmer Through Its Registrar.
3. The Director, Pension And Pensions' Welfare Department, Rajasthan, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Ashish Saksena for Mr. S.K. Saksena
For Respondent(s)	:	Ms. Priyanka Barwar for Mr. Rahul Lodha, AGC for Pension Department Mr. Umesh Choudhary for Mr. V.D. Gathala for R-1,2

HON'BLE MR. JUSTICE ANAND SHARMA

Order

18/03/2026

1. This writ petition has been filed by the petitioner with following prayer:

*"(i) An appropriate writ, order or direction to the respondents for quashing the order dt. 15.07.1999 with consequential relief and further, declaring the petitioner eligible for selection scale on completion of 15 years of service w.e.f. 01.03.1988 as per Circular dt. 23.01.1985 (as per the order dt. 30.05.1989) with consequential relief and arrears @ 12% p.a.
(ii) An appropriate writ, order or direction to the respondents for revision of entire retiral benefits i.e. PPO/ GPO / CPO etc after grant of fixation prayed for*

in prayer No. (i) with consequential relief and arrears alongwith interest @ 12% p.a.

(iii) An appropriate writ, order or direction to the respondents for declaring the recovery of the amount of Rs. 11,820/- to be ab-initio illegal & wrong and order for refunding the aforementioned deducted amount with interest @ 12% from the date of recovery till the date of actual payment.

(iv) An appropriate writ, order or direction to the respondents for quashing the adverse order, if passed, during the pendency of the writ petition adversely affecting the cause of writ petition.

(v) Any other appropriate writ, order or direction to the respondents, which this hon'ble court deems just, and proper in the circumstances of the case.

(vi) Cost of the writ petition. "

2. It is stated that the petitioner was initially appointed on 19.02.1973 on the post of Lower Division Clerk in the office of Executive Engineer, Public Health and Division Department, Kota after following the due process of selection. Learned counsel submits that vide order dated 27.08.1976, the petitioner was transferred from PHED Department to Board of Revenue. Thereafter, one order dated 30.05.1989 was issued in order to grant benefit of selection grade pursuant to order dated 23.01.1985 issued by the Finance Department on completion of 15 years of services w.e.f. 01.03.1998, evidencing that services of the petitioner from initial date of appointment in PHD w.e.f. 19.02.1973 was taken into consideration.

3. Learned counsel appearing for the petitioner submits that after lapse of more than 10 years, all of sudden without affording any opportunity of hearing, an order dated 15.07.1999 was issued by the Deputy Registrar (Administration), Board of Revenue, Ajmer whereby the benefit of grant of selection grade on completion of 15 years of service was revised and instead of

counting services of the petitioner from the first date of appointment in PHED, the respondents granted such benefit w.e.f 30.08.1991 after computing the services from the date of joining in Board of Revenue on 30.08.1976. Learned counsel further submits that in similar manner, one another employee Vasiullah Baig was also initially appointed in the office of District Collector on 14.07.1973 and was subsequently transferred to Patwar Training School, which also comes within the jurisdiction of Board of Revenue, vide order dated 10.01.1978 and since, the benefits of selection grade on completion of 15 years of service were although granted to him by counting his services from first date of appointment, yet later on, such benefit was withdrawn and revised by granting the benefits from the date of transfer to the office of Patwar Training School, Vasiullah Baig filed appeal No. 1968/2002 before Rajasthan Civil Services Appellate Tribunal, Jaipur by way of filing appeal No. 1968/2002, which was allowed by the Tribunal. Order of the Tribunal was challenged by the State Government before the Single Judge of this Court by way of filing writ petition; however, the writ petition filed by the State Government was dismissed vide order dated 11.04.2005. Thereafter, the State Government approached the Division Bench by way of filing D.B. Special Appeal (Writ) No. 945/2008, however the same was also dismissed by the Division Bench vide order dated 11.06.2014. Consequently, benefits of selection grade earlier granted were restored to Vasiullah Baig after computing his services from initial date of appointment and not for the date of the transfer in Board of Revenue.

4. Learned counsel submits that since benefit was granted to the similarly situated person therefore, the petitioner also filed representations before the respondents, however, no conclusive decision was taken on his representation and vide letter dated 19.08.2015 it was informed to the petitioner that the respondent-Board has sought guidelines from the State Government and soon after receiving favourable directions, any decision can be taken over the representation of the petitioner. Hence, the inaction of the respondents prompted the petitioner to file this writ petition.

5. Learned counsel for the petitioner also submits that the State Government also issued Circular dated 25.01.1992 in order to introduce scheme of grant of selection grade on completion of 9, 18 and 27 years of service. Quite significantly while granting benefit of second and third selection grade on completion of 18 and 27 years of service, length of service of the petitioner has been calculated with effect from his first date of appointment with Public Health and Engineering Department i.e. from 19.02.1973. Learned counsel submits that the case of the petitioner is not dissimilar to the case of Vasiullah Baig and only under the pretext of not receiving any instructions for the State Government, the petitioner has been deprived of similar benefits as granted by the respondents in the case of Vasiullah Baig.

6. The writ petition has been opposed by the respondents by way of filing reply wherein, it has been categorically stated that although, for the purpose of grant of pensionary benefits, services of the petitioner can be computed from the year 1973, when the petitioner was initially appointed in PHED Department yet, so far as, benefit of selection grade is concerned, as the same is

governed by the prevailing circulars and as per the Circular dated 23.01.1985, services of 15 years were to be counted from the date of joining in the service. Earlier, the petitioner was a member of different service in PHED Department and he joined the service of Board of Revenue only in the year 30.08.1976. Therefore, for the purpose of selection grade, his services shall be counted only from the date of joining in Board of Revenue. It is also submitted that earlier, on account of bonafide error, earlier the benefit of selection grade on completion of 15 years of service was granted to the petitioner by calculating his services from the year 1973 and later on, when such error came to the notice of the department, it was rectified and order dated 15.07.1999 was issued by the respondents whereby, the benefits have been revised as per terms of the circular and selection grade was permitted to the petitioner from the date of joining services of Board of Revenue.

7. Learned counsel for the respondents submits that impugned order issued in the year 1999 has been challenged by the petitioner in the year 2015 therefore, the writ petition is suffering from the vice of delay and latches. It is submitted that judgment in the case of **State of Rajasthan & Ors. Vs. Vasiullah Baig & Anr.** was delivered by Division Bench of this Court in peculiar facts and circumstances of the case and such judgment is not at all applicable in the case of the petitioner.

8. Learned counsel also submits that in case any benefit has been given by the Department to an individual and that too in compliance of order passed by Division Bench of this Court, the same would not confer any right upon the petitioner to claim

parity and the writ petition filed by the petitioner is liable to be dismissed.

9. Heard learned counsel for the parties and perused the record.

10. It has not been disputed either in reply or during the course of arguments made by learned counsel for the respondents that no opportunity of hearing was afforded to the petitioner prior to passing of order dated 15.07.1999 whereby, benefit of selection grade on completion of 15 years of services earlier granted to the petitioner was revised to the disadvantage of the petitioner. Earlier, when the order dated 30.05.1989 was issued for granting the benefits of selection grade by computing length of service from initial date of appointment in PHED, such order conferred vested right upon the petitioner and such rights could not have been taken away without compliance of principles of natural justice.

11. Bare perusal of judgment dated 11.06.2014 passed by Division Bench of this Court in the case of Vasiullah Baig (supra), would reveal that the facts were almost similar; and this Court also finds that the initial benefit of 15 years of service was granted to the petitioner as well as Vasiullah Baig by a common order dated 30.05.1989. The respondents have utterly failed to point out any material difference between the case of the petitioner and that of Vasiullah Baig, hence there are no apparent reasons for not granting similar benefits to the petitioner.

12. It has also not been disputed that earlier representation filed by the petitioner for granting similar benefits qua Vasiullah Baig was never finally decided by the respondents and vide letter

dated 19.08.2015, the petitioner was informed that his matter with regard to granting selection grade has been referred to the State Government and only after getting the guidelines, necessary orders would be passed. Thus, claim of the petitioner was never conclusively adjudicated and remained unaddressed by the respondents. Hence, it cannot be said that the writ petition has been filed with delay by the petitioner. Even otherwise, as decided by the Hon'ble Supreme Court in the case of **M.R. Gupta Vs. Union of India, (1995) 5 SCC 628**, fixational wrongs are considered as continuing wrong. It is also a matter of fact that pursuant to order dated 25.01.1992 issued by Finance Department of Government of Rajasthan, benefits of second and third selection grade on completion of 18 and 27 years pf service have been granted to the petitioner by computing his services from 19.02.1973 when the petitioner initially joined in PHED Department. Thus, no cogent reason has come forward for computing the length of service with two different yardsticks, one for granting benefit of 15 years by computing the services from the year 1976 and second, for grant of benefit of selection grade on completion of 9 and 18 years of service by calculating the services from initial date of appointment in PHD from the year 1973.

13. In view of the aforesaid discussion, this Court finds that the order dated 15.07.1999 issued by the Deputy Registrar (Administration) of Board of Revenue is totally arbitrary, unjustified and in violation of principles of natural justice. Hence, the same is quashed and set-aside.

14. The respondents are directed to pass a fresh order in consequence of quashing order dated 15.07.1999 and in case, the petitioner is entitled for any financial benefit/arrears, same shall be sanctioned and released to the petitioner within a period of 60 days from the date of receipt of certified copy of this order.

15. The writ petition is allowed, accordingly.

16. Pending application(s), if any, shall stand disposed of.

(ANAND SHARMA),J